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Short Title: Energy/Economic Development Modifications.

(Public)

Sponsors:

Referred to:

February 25, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) PERMIT THE DEPARTMENT OF COMMERCE TO CONTRACT WITH A NORTH CAROLINA NONPROFIT CORPORATION FOR THE PERFORMANCE OF CERTAIN ECONOMIC DEVELOPMENT FUNCTIONS; (2) MODIFY THE NORTH CAROLINA BOARD OF SCIENCE AND TECHNOLOGY; (3) CREATE COLLABORATION FOR PROSPERITY ZONES; (4) REQUIRE CERTAIN LIAISONS IN EACH COLLABORATION FOR PROSPERITY ZONE; (5) STUDY COMMISSION ON INTERAGENCY COLLABORATION FOR PROSPERITY; (6) MODIFY REPEAL OF CERTAIN REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS; (7) AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ISSUE PERMITS ON OR AFTER JULY 1, 2015, FOR OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES IN THE STATE, INCLUDING THE USE OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS FOR THAT PURPOSE; AND (8) PROVIDE A TAX FOR THE SEVERANCE OF ENERGY MINERALS FROM THE SOIL OR WATER OF THE STATE, REPEAL OUTDATED OIL AND GAS TAX STATUTES, AND AUTHORIZE THE SUSPENSION OF PERMITS FOR FAILURE TO FILE A RETURN FOR SEVERANCE TAXES.

The General Assembly of North Carolina enacts:

PART I. AUTHORIZE CONTRACTING OF ECONOMIC DEVELOPMENT FUNCTIONS BY THE DEPARTMENT OF COMMERCE

SECTION 1.1. Part 1 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-431A. Department of Commerce – contracting of functions.

(a) Purpose. – The purpose of this section is to establish a framework whereby the Department of Commerce may support through financial and other means one or more nonprofit corporations that will render advisory, research, and recruiting recommendations regarding incentives or grant awards for fostering and retaining jobs and business development.



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1 marketing, and consultation in the development of a comprehensive, long-range strategic plan
2 for economic development through public and private means. It is the intent of the General
3 Assembly that the Department develops a plan to work cooperatively with nonprofit
4 corporations for these purposes while safeguarding programmatic transparency and
5 accountability as well as the fiscal integrity of economic development programs of the State.

6 (b) Contract. – The Department of Commerce is authorized to contract with one or
7 more North Carolina nonprofit corporations to perform one or more of the Department's
8 functions, powers, duties, and obligations set forth in G.S. 143B-431, except as provided in this
9 subsection. If the Department contracts with a North Carolina nonprofit corporation to promote
10 and grow the travel and tourism industries, then all funds appropriated to the Department for
11 tourism marketing purposes shall be used for a research-based comprehensive marketing
12 program directed toward consumers in key markets most likely to travel to North Carolina and
13 not for ancillary activities, such as statewide branding and business development marketing.
14 The Department may not contract with a North Carolina nonprofit corporation regarding any of
15 the following:

- 16 (1) The obligation or commitment of funds under this Article, such as the One
17 North Carolina Fund, the Job Development Investment Grant Program, the
18 Industrial Development Fund, or the Job Maintenance and Capital
19 Development Fund, by a North Carolina nonprofit corporation.
- 20 (2) The Division of Employment Security, including the administration of
21 unemployment insurance.
- 22 (3) The functions set forth in G.S. 143B-431(a)(2).
- 23 (4) The administration of funds or grants received from the federal government
24 or its agencies.

25 (c) Oversight. – There is established the Economic Development Oversight Committee,
26 which is a Board as that term is defined in G.S. 138A-3 of the State Government Ethics Act.
27 The Committee shall consist of seven members as follows: the Secretary of Commerce as Chair
28 of the Committee, the Secretary of Transportation, the Secretary of Environment and Natural
29 Resources, the Secretary of Revenue, one member appointed by the Speaker of the House of
30 Representatives, one member appointed by the President Pro Tempore of the Senate, and one
31 member jointly appointed by the Speaker of the House of Representatives and the President Pro
32 Tempore of the Senate.

33 The members of the Committee who are appointed by the Speaker of the House of
34 Representatives or by the President Pro Tempore of the Senate may not be members of the
35 General Assembly. The Committee shall meet at least quarterly upon the call of the chair. The
36 duties of the Committee shall include all of the following:

- 37 (1) Monitoring and oversight of the performance of a contract entered into
38 pursuant to this section by the Department with a North Carolina nonprofit
39 corporation.
- 40 (2) Receiving, reviewing, and referring complaints regarding the contract or the
41 performance of the nonprofit corporation, as appropriate.
- 42 (3) Requesting enforcement of the contract by the Attorney General or the
43 Department.
- 44 (4) Auditing, at least biennially, either by use of the State Auditor or internal
45 auditors of the Department, of the records of a North Carolina nonprofit
46 corporation with which the Department has contracted pursuant to this
47 section during and after the term of the contract to verify data affecting
48 performance and reports.
- 49 (5) Coordination of economic development grant programs of the State between
50 the Department of Commerce, the Department of Transportation, and the
51 Department of Environment and Natural Resources.

1 (6) Any other duties deemed necessary by the Committee.

2 (d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation
3 pursuant to this section and in order for a North Carolina nonprofit corporation to receive State
4 funds, the following conditions shall be met:

5 (1) At least 45 days prior to entering into or amending in a nontechnical manner
6 a contract authorized by this section, the Department shall submit the
7 contract or amendment, along with a detailed explanation of the contract or
8 amendment, to the Joint Legislative Commission on Governmental
9 Operations and the Fiscal Research Division.

10 (2) The North Carolina nonprofit corporation adheres to the following
11 governance provisions related to its governing board:

12 a. The board shall be composed of 17 voting members as follows: eight
13 members and the chair appointed by the Governor, four members
14 appointed by the Speaker of the House of Representatives, and four
15 members appointed by the President Pro Tempore of the Senate. The
16 Governor, the Speaker of the House of Representatives, and the
17 President Pro Tempore of the Senate shall each select members so as
18 to reflect the diversity of the State's geography, and each member
19 appointed by the Governor shall have expertise in one or more of the
20 following areas:

21 1. Agribusiness, as recommended by the Commissioner of
22 Agriculture.

23 2. Financial services.

24 3. Information technology.

25 4. Biotechnology or life sciences.

26 5. Energy.

27 6. Manufacturing.

28 7. Military or defense.

29 8. Tourism, as jointly recommended by the North Carolina
30 Travel and Tourism Coalition and the North Carolina Travel
31 Industry Association.

32 9. Retail, distribution, and logistics.

33 b. No member of the board may take any official action or use the
34 member's official position to profit in any manner the board
35 member's immediate family, a business with which the board
36 member or the board member's immediate family has a business
37 association, or a client of the board member or the board member's
38 immediate family with whom the board member, or the board
39 member's immediate family, has an existing business relationship for
40 matters before the board. No board member shall attempt to profit
41 from a proposed project of the Department if the profit is greater than
42 that which would be realized by other persons living in the area
43 where the project is located. If the profit under this subsection would
44 be greater for the board member than other persons living in the area
45 where the project is located, not only shall the member abstain from
46 voting on that issue, but once the conflict of interest is apparent, the
47 member shall not discuss the project with any other board member or
48 other officer or employee of the Department except to state that a
49 conflict of interest exists. Under this sub-subdivision, a board
50 member is presumed to profit if the profit would be realized by a
51 board member's immediate family, a business with which the board

1 member or the board member's immediate family has a business
2 association, or a client of the board member or the board member's
3 immediate family with whom the board member, or the board
4 member's immediate family, has an existing business relationship for
5 matters before the board. No board member, in contemplation of
6 official action by the board member, by the board, or in reliance on
7 information that was made known to the board member in the board
8 member's official capacity and that has not been made public, shall
9 (i) acquire a pecuniary interest in any property, transaction, or
10 enterprise or gain any pecuniary benefit that may be affected by such
11 information or official action or (ii) intentionally aid another to do
12 any of the above acts. As used in this sub-subdivision, the following
13 terms mean:

- 14 1. Board. – The governing board of a nonprofit corporation with
15 which the Department contracts pursuant to this section.
- 16 2. Board member. – A member of the board.
- 17 3. Business association. – A director, employee, officer, or
18 partner of a business entity, or owner of more than ten percent
19 (10%) interest in any business entity.
- 20 4. Department. – The Department of Commerce.
- 21 5. Immediate family. – Spouse, children, parents, brothers, and
22 sisters.
- 23 6. Official action. – Actions taken while a board member related
24 to or in connection with the person's duties as a board
25 member, including, but not limited to, voting on matters
26 before the board, proposing or objecting to proposals for
27 economic development actions by the Department or the
28 board, discussing economic development matters with other
29 board members or Department staff or employees in an effort
30 to further the matter after the conflict of interest has been
31 discovered, or taking actions in the course and scope of the
32 position as a board member and actions leading to or resulting
33 in profit.
- 34 7. Profit. – Receive monetary or economic gain or benefit,
35 including an increase in value whether or not recognized by
36 sale or trade.

37 c. No State officer or employee may serve on the board.

38 d. The board shall meet at least quarterly at the call of its chair. Each
39 quarter and upon request, the board shall report to the Chair of the
40 Economic Development Oversight Committee on the progress of the
41 State's economic development.

42 (3) The amount of State funds that may be used for the annual salary of any one
43 employee of a corporation shall not exceed the amount most recently set by
44 the General Assembly in a Current Operations Appropriations Act.

45 (e) Mandatory Contract Terms. – Any contract entered into under this section must
46 include all of the following:

47 (1) A provision requiring the corporation provide to the Joint Legislative
48 Economic Development and Global Engagement Oversight Committee, the
49 Department of Commerce, and the Fiscal Research Division a copy of the
50 corporation's annual audited financial statement within seven days of
51 issuance of the statement.

- 1 (2) A provision requiring the corporation to provide, by September 1 of each
2 year, and more frequently as requested, a report to the Department on prior
3 State fiscal year program activities, objectives, and accomplishments and
4 prior State fiscal year itemized expenditures and fund sources. The report
5 shall also include (i) jobs anticipated to result and actually resulting from
6 efforts of the nonprofit corporation, (ii) developed performance metrics of
7 economic development functions, itemized by county, by development tier
8 area designation, as defined by G.S. 143B-437.08, and by Collaboration for
9 Prosperity Zone created pursuant to G.S. 143B-28.1, and (iii) any proposed
10 amendments to the areas of expertise required to be represented on the
11 governing board of the corporation.
- 12 (3) A provision providing that, upon termination of the contract or a request by
13 the Department of enforcement of the contract by the Attorney General, or
14 upon action of the General Assembly repealing the charter of a nonprofit
15 corporation with which the Department has contracted under this section and
16 to which the Department has provided assets or funds, all assets and funds of
17 the nonprofit corporation, including financial and operational records and the
18 right to receive future funds pursuant to the contract, will be returned to the
19 Department for economic development purposes. For purposes of this
20 subdivision, assets and funds of the nonprofit corporation include assets and
21 funds of any subsidiary or affiliate of the nonprofit corporation. An affiliate
22 of the nonprofit corporation exists when both are directly or indirectly
23 controlled by the same parent corporation or by the same or associated
24 financial interests by stock ownership, interlocking directors, or by any other
25 means whatsoever, whether the control is direct or through one or more
26 subsidiary, affiliated, or controlled corporations.
- 27 (4) A provision providing that any recommendation or advice to the Department
28 be accompanied by a statement indicating whether the corporation or any
29 affiliated member of the corporation has received, directly or indirectly, any
30 gift, contribution, or item or service of value for which fair market value was
31 not paid if such was received from an entity that is the subject of the
32 recommendation or advice. The statement shall also include the amount and
33 date of each gift, contribution, or item or service of value received.
- 34 (5) A certification by the North Carolina nonprofit corporation that it is in
35 compliance with the requirements of Chapter 55A of the General Statutes.
- 36 (6) A provision providing that the corporation shall adopt and publish a
37 resolution or policy containing a code of ethics to guide actions by the
38 governing board members in the performance of the member's duties as a
39 member of that governing board. The resolution or policy required by this
40 subdivision shall address at least all of the following:
- 41 a. The need to obey all applicable laws regarding actions taken as a
42 board member.
- 43 b. The need to uphold the integrity and independence of the board.
- 44 c. The need to avoid impropriety in the exercise of the board member's
45 duties.
- 46 d. The need to faithfully perform the board member's duties.
- 47 e. The need to conduct the affairs of the governing board in an open
48 and public manner and to avoid conflicts of interest.
- 49 (f) Report. – By September 30 of each year, and more frequently as requested, the
50 Department shall submit a report to the Joint Legislative Commission on Governmental
51 Operations, the Joint Legislative Economic Development and Global Engagement Oversight

1 Committee, and the Fiscal Research Division on any performance for which the Department
2 has contracted pursuant to this section. The report shall contain, at a minimum, a copy of the
3 most recent report required by the Department pursuant subdivision (2) of subsection (e) of this
4 section, an executive summary of that report, a listing of each entity to which the nonprofit
5 corporation has recommended awarding funds and the amount of funds recommended to be
6 awarded, and any other information the Secretary determines is necessary or that is specifically
7 requested in writing.

8 (g) Public Information. – A North Carolina nonprofit corporation with which the
9 Department contracts pursuant to this section is subject to the requirements of Chapter 132 and
10 Article 33C of Chapter 143 of the General Statutes."

11 **SECTION 1.2.(a)** G.S. 143B-434 is repealed.

12 **SECTION 1.2.(b)** G.S. 143B-434.01 reads as rewritten:

13 **"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.**

14 (a) Definitions. – The following definitions apply in this section:

15 (1) ~~Board.~~— ~~The Economic Development Board.~~

16 ...

17 (6) Secretary. – The Secretary of Commerce or the governing board of a North
18 Carolina nonprofit corporation with which the Department contracts
19 pursuant to G.S. 143B-431A for the performance of the Secretary's
20 responsibilities under this section.

21 (b) ~~Board to Prepare Plan.~~ – ~~The Board Secretary shall prepare review and update the~~
22 ~~existing Plan by April 1, 1994, on or before April 1 of each year. The Board shall review and~~
23 ~~update this Plan by April 1 of each year. The original Plan shall cover a period of four years~~
24 ~~and each annual update shall extend the time frame by one year so that a four-year plan is~~
25 ~~always in effect. The Board Secretary shall provide copies of the Plan and each annual update~~
26 ~~to the Governor and the Joint Legislative Commission on Governmental Operations. The Plan~~
27 ~~shall encompass all of the components set out in this section.~~

28 (c) Purpose. – The purpose of this section is to require the ~~Board Secretary~~ to apply
29 strategic planning principles to its economic development efforts. This requirement is expected
30 to result in:

31 (1) The selection of a set of priority development objectives that recognizes the
32 increasingly competitive economic environment and addresses the changing
33 needs of the State in a more comprehensive manner.

34 (2) The effective utilization of available and limited resources.

35 (3) A commitment to achieve priority objectives and to sustain the process.

36 (d) (1) Public and Private Input. – At each stage as it develops and updates the Plan,
37 the ~~Board Secretary~~ shall solicit input from all parties involved in economic
38 development in North Carolina, including:

39 a. Each of the programs and organizations that, for State budget
40 purposes, identifies economic development as one of its global goals.

41 b. Local economic development departments and regional economic
42 development organizations.

43 c. The Board of Governors of The University of North Carolina.

44 (2) The ~~Board Secretary~~ shall also hold hearings in each of the Regions to solicit
45 public input on economic development before the initial Plan is completed.
46 The purposes of the public hearings are to:

47 a. Assess the strengths and weaknesses of recent regional economic
48 performance.

49 b. Examine the status and competitive position of the regional resource
50 base.

1 c. Identify and seek input on issues that are key to improving the
2 economic well-being of the Region.

3 The ~~Board-Secretary~~ shall hold additional hearings from time to time to
4 solicit public input regarding economic development activities.

5 (3) Each component of the Plan shall be based on this broad input and, to the
6 extent possible, upon a consensus among all affected parties. The ~~Board~~
7 Secretary shall coordinate its planning process with any State capital
8 development planning efforts affecting State infrastructure such as roads and
9 water and sewer facilities.

10 (e) Environmental Scan. – The first step in developing the Plan shall be to develop an
11 environmental scan based on the input from economic development parties and the public and
12 on information about the economic environment in North Carolina. To prepare the scan, the
13 ~~Board-Secretary~~ shall gather the ~~following~~ information required in this subsection and ensure
14 that the information is updated periodically. The updated information may be provided in
15 whatever format and through whatever means is most efficient. The information required to
16 prepare the scan includes all of the following:

17 ...

18 (f) Repealed by Session Laws 2012-142, s. 13.4(a), effective July 1, 2012.

19 (g) Vision and Mission Statements. – The ~~Board-Secretary~~ shall develop a vision
20 statement for economic development that would describe the preferred future for North
21 Carolina and what North Carolina would be like if all economic development efforts were
22 successful. The ~~Board-Secretary~~ shall then develop a mission statement that outlines the basic
23 purpose of each of North Carolina's economic development programs. Because special purpose
24 nonprofit organizations are uniquely situated to conduct the entrepreneurial and high-risk
25 activity of investing in and supporting new business creation in the State, they should be
26 assigned a dominant role in this key component of economic development activity.

27 (h) Goals and Objectives. – The ~~Board-Secretary~~, using data from the public input and
28 the environmental scan, shall formulate a list of goals and objectives. Goals shall be
29 long-range, four years or more, and shall address both needs of economically distressed
30 Regions and counties as well as opportunities for Regions and counties not distressed. The
31 goals shall be developed with realism but should also be selected so as to encourage every
32 Region and county within the State to develop to its maximum potential. Objectives shall be
33 one year or less in scope and shall, if achieved, lead to the realization of the goals formulated
34 by the ~~Board-Secretary~~ as provided in this section.

35 Both goals and objectives should be stated largely in economic terms, that is, they should
36 be related to specific population, employment, demographic targets, or economic sector targets.
37 Both efficiency and equity considerations are to be addressed and balanced with special
38 emphasis placed on the needs of disadvantaged or economically distressed populations and
39 communities. The goals and objectives should not state how the economic targets are to be
40 reached, but rather what the economic conditions will be if they are obtained. So that the
41 progress of North Carolina's economic development efforts can be monitored, the ~~Board~~
42 Secretary shall set objectives for each goal that allow measurement of progress toward the goal.
43 Objectives should be quantifiable and time-specific in order to serve as performance indicators.

44 ...

45 (j) Implementation Plan. – Based upon all of the foregoing steps, the ~~Board-Secretary~~
46 shall establish an implementation plan assigning to the appropriate parties specific
47 responsibilities for meeting measurable objectives. The implementation plan shall contain all
48 necessary elements so that it may be used as a means to monitor performance, guide
49 appropriations, and evaluate the outcomes of the parties involved in economic development in
50 the State.

1 (k) Annual Evaluation. – The ~~Board~~Secretary shall annually evaluate the State's
2 economic performance based upon the statistics listed in this subsection and upon the ~~Board's~~
3 Secretary's stated goals and objectives in its Plan. The statistics upon which the evaluation is
4 made should be available to policymakers. The information may be provided in whatever
5 format and through whatever means is most efficient.

6 ...
7 (l) Accountability. – The ~~Board~~Secretary shall make all data, plans, and reports
8 available to the General Assembly, the Joint Legislative Commission on Governmental
9 Operations, the Joint Legislative Economic Development and Global Engagement Oversight
10 Committee, the Senate Appropriations Committee on Natural and Economic Resources, and the
11 House of Representatives Appropriations Subcommittee on Natural and Economic Resources at
12 appropriate times and upon request. The ~~Board~~Secretary shall prepare and make available on
13 an annual basis public reports on each of the major sections of the Plan and the Annual Report
14 indicating the degree of success in attaining each development objective."

15 **SECTION 1.2.(c)** G.S. 143B-431A(d), as enacted by Section 1.1 of this act, is
16 amended by adding the following new sub-subdivision to read:

17 "(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation
18 pursuant to this section and in order for a North Carolina nonprofit corporation to receive State
19 funds, the following conditions shall be met:

20 ...
21 (2) The North Carolina nonprofit corporation adheres to the following
22 governance provisions related to its governing board:

23 ...
24 g. The board is required to perform the following duties:

- 25 1. To provide advice concerning economic and community
26 development planning for the State, including a strategic
27 business facilities development analysis of existing, available
28 buildings or shell or special-use buildings and sites.
- 29 2. To recommend economic development policy to the
30 Secretary of Commerce, the General Assembly, and the
31 Governor.
- 32 3. To recommend annually to the Governor biennial and annual
33 appropriations for economic development programs.
- 34 4. To recommend how best to coordinate economic
35 development efforts among the various agencies and entities,
36 including those created by executive order of the Governor,
37 that receive economic development appropriations, including
38 the assignment of key responsibilities for different aspects of
39 economic development and resource allocation and planning
40 designed to encourage each agency to focus on its area of
41 primary responsibility and not diffuse its resources by
42 conducting activities assigned to other agencies."

43 **SECTION 1.2.(d)** G.S. 143B-437.03 is repealed.

44 **SECTION 1.3.** The Department of Commerce shall study and develop a plan for
45 contracting with one or more North Carolina nonprofit corporations for the performance of
46 economic development and tourism marketing activities and duties of the Department,
47 including a research-based tourism marketing program. The Department shall consult with
48 various stakeholders from organizations involved in economic development recruitment and
49 activities in the State. The Department shall consider the benefits and costs of implementing the
50 plan developed pursuant to this study, including increasing the ability of the State to respond in
51 a timely manner to economic development opportunities; the advantages and likelihood of

1 increased cooperation and synergies between established economic development funding
 2 streams; the ability to better leverage economic development funds to greater effect; personnel
 3 issues; issues relating to increased liability, if any; and safeguards and best practices to ensure
 4 proper use of and return on State funds expended for economic development. The Department
 5 shall examine the efforts of other states that have permitted public-private partnerships for
 6 economic development activities or other means to allow corporate entities to assist in the
 7 performance of economic development activities. The Department's plan shall include a
 8 schedule for implementation of contracting its activities and duties to one or more nonprofit
 9 corporations, and the schedule shall provide that the implementation occur in at least three
 10 phases, detailing which activities and duties shall be contracted in each phase and the
 11 anticipated advantages of the phased implementation.

12 The Department shall make a report to the Joint Legislative Commission on
 13 Governmental Operations no later than March 1, 2014, and prior to entering into a contract
 14 pursuant to G.S. 143B-431A, as enacted by this act.

15 **SECTION 1.4.** G.S. 126-5 reads as rewritten:

16 "**§ 126-5. Employees subject to Chapter; exemptions.**

17 ...

18 (c2) The provisions of this Chapter shall not apply to:

19 ...

20 (5) Officers and employees of a North Carolina nonprofit corporation with
 21 which the Department of Commerce has contracted pursuant to the authority
 22 granted in G.S. 143B-431A.

23 ...

24 (d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
 25 Chapter, which is known as the State Personnel Act, the Governor may
 26 designate a total of 1,000 exempt positions throughout the following
 27 departments:

28 ...

29 (2b) Designation of Liaison Positions. – Liaisons to the Collaboration for
 30 Prosperity Zones set out in G.S. 143B-28.1 for the Departments of
 31 Commerce, Environment and Natural Resources, and Transportation are
 32 designated as exempt.

33"

34 **SECTION 1.5.** Section 1.2 of this act becomes effective January 1, 2014.
 35 Notwithstanding G.S. 143B-434.01(b), the Board shall prepare the Comprehensive Strategic
 36 Economic Development Plan by December 31, 2013. The remainder of this Part becomes
 37 effective July 1, 2013. For purposes of G.S. 143B-431A(d)(3), as enacted by this act, the
 38 limitation for the amount of State funds that may be used for the annual salary of an employee
 39 of a nonprofit corporation with which the Department of Commerce contracts is one hundred
 40 twenty thousand dollars (\$120,000) until the General Assembly modifies that amount by setting
 41 a different amount in a Current Operations Appropriations Act.

42 43 **PART II. MODIFY NORTH CAROLINA BOARD OF SCIENCE AND** 44 **TECHNOLOGY**

45 **SECTION 2.1.** Part 18 of Article 10 of Chapter 143B of the General Statutes reads
 46 as rewritten:

47 "Part 18. North Carolina Board of ~~Science and Technology.~~Science, Technology, and
 48 Innovation.

49 "**§ 143B-472.80. North Carolina Board of ~~Science and Technology;~~ Science, Technology,**
 50 **and Innovation; creation; powers and duties.**

1 The North Carolina Board of ~~Science and Technology~~ Science, Technology, and Innovation
2 of the Department of Commerce is created. The Board has the following powers and duties:

3 ...

- 4 (4) To advise and make recommendations to the Governor, the General
5 Assembly, the Secretary of Commerce, and ~~the Economic Development~~
6 ~~Board~~ any North Carolina nonprofit corporation with which the Department
7 of Commerce contracts pursuant to G.S. 143B-431A on the role of ~~science~~
8 ~~and technology~~ science, technology, and innovation in the economic growth
9 and development of North Carolina.

10 ...

11 "**§ 143B-472.81. North Carolina Board of ~~Science and Technology~~; Science, Technology,**
12 **and Innovation; membership; organization; compensation; staff services.**

13 (a) The North Carolina Board of ~~Science and Technology~~ Science, Technology, and
14 Innovation consists of the Governor, the Secretary of Commerce, and ~~17-23~~ members
15 appointed as follows: the Governor shall appoint one member from the University of North
16 Carolina at Chapel Hill, one member from North Carolina State University at Raleigh, and two
17 members from other components of the University of North Carolina, one of which shall be
18 from a historically black college or university, all nominated by the President of the University
19 of North Carolina; one member from Duke University, nominated by the President of Duke
20 University; one member from a private college or university, other than Duke University, in
21 North Carolina, nominated by the President of the Association of Private Colleges and
22 Universities; one member of the North Carolina Community College System; one member
23 representing K-12 public education; one member from the Research Triangle Institute,
24 nominated by the executive committee of the board of that institute; one member from the
25 Microelectronics Center of North Carolina, nominated by the executive committee of the board
26 of that center; one member from the North Carolina Biotechnology Center, nominated by the
27 executive committee of the board of that center; four ~~six~~ members from private industry in
28 North Carolina, at least one of whom shall be a professional engineer registered pursuant to
29 Chapter 89C of the General Statutes or a person who holds at least a bachelors degree in
30 engineering from an accredited college or university; and two members from public agencies in
31 North Carolina. ~~Carolina~~; and seven at-large members. Two members shall be appointed by the
32 General Assembly, one shall be appointed upon the recommendation of the President Pro
33 Tempore of the Senate, and one shall be appointed upon the recommendation of the Speaker of
34 the House of Representatives in accordance with G.S. 120-121. The nominating authority for
35 any vacancy on the Board among members appointed by the Governor shall submit to the
36 Governor two nominations for each position to be filled, and the persons so nominated shall
37 represent different disciplines.

38"

39 **SECTION 2.2.** G.S. 143B-437.80 reads as rewritten:

40 "**§ 143B-437.80. North Carolina SBIR/STTR Incentive Program.**

41 (a) Program. – There is established the North Carolina SBIR/STTR Incentive Program
42 to be administered by the North Carolina Board of ~~Science and Technology~~ Science,
43 Technology, and Innovation. In order to foster job creation and economic development in the
44 State, the Board may provide grants to eligible businesses to offset costs associated with
45 applying to the United States Small Business Administration for Small Business Innovative
46 Research (SBIR) grants or Small Business Technology Transfer Research (STTR) grants. The
47 grants shall be paid from the One North Carolina Small Business Account established in
48 G.S. 143B-437.71.

49 ...

50 (c) Grant. – The North Carolina Board of ~~Science and Technology~~ Science, Technology,
51 and Innovation may award grants to reimburse an eligible business for up to fifty percent (50%)

1 of the costs of preparing and submitting a SBIR/STTR Phase I proposal, up to a maximum of
 2 three thousand dollars (\$3,000). A business may receive only one grant under this section per
 3 year. A business may receive only one grant under this section with respect to each federal
 4 proposal submission. Costs that may be reimbursed include costs incurred directly related to
 5 preparation and submission of the grant such as word processing services, proposal consulting
 6 fees, project-related supplies, literature searches, rental of space or equipment related to the
 7 proposal preparation, and salaries of individuals involved with the preparation of the proposals.
 8 Costs that shall not be reimbursed include travel expenses, large equipment purchases, facility
 9 or leasehold improvements, and legal fees.

10 (d) Application. – A business shall apply, under oath, to the North Carolina Board of
 11 ~~Science and Technology~~ Science, Technology, and Innovation for a grant under this section on
 12 a form prescribed by the Board that includes at least all of the following:

13"

14 **SECTION 2.3.** G.S. 143B-437.81 reads as rewritten:

15 "**§ 143B-437.81. North Carolina SBIR/STTR Matching Funds Program.**

16 (a) Program. – There is established the North Carolina SBIR/STTR Matching Funds
 17 Program to be administered by the North Carolina Board of ~~Science and Technology~~. Science,
 18 Technology, and Innovation. In order to foster job creation and economic development in the
 19 State, the Board may provide grants to eligible businesses to match funds received by a
 20 business as a SBIR or STTR Phase I award and to encourage businesses to apply for Phase II
 21 awards.

22 ...

23 (c) Grant. – The North Carolina Board of ~~Science and Technology~~ Science,
 24 Technology, and Innovation may award grants to match the funds received by a business
 25 through a SBIR/STTR Phase I proposal up to a maximum of one hundred thousand dollars
 26 (\$100,000). Seventy-five percent (75%) of the total grant shall be remitted to the business upon
 27 receipt of the SBIR/STTR Phase I award and application for funds under this section.
 28 Twenty-five percent (25%) of the total grant shall be remitted to the business upon submission
 29 by the business of the Phase II application to the funding agency and acceptance of the Phase I
 30 report by the funding agency. A business may receive only one grant under this section per
 31 year. A business may receive only one grant under this section with respect to each federal
 32 proposal submission. Over its lifetime, a business may receive a maximum of five awards
 33 under this section.

34 (d) Application. – A business shall apply, under oath, to the North Carolina Board of
 35 ~~Science and Technology~~ Science, Technology, and Innovation for a grant under this section on
 36 a form prescribed by the Board that includes at least all of the following:

37"

38
 39 **PART III. CREATION OF COLLABORATION FOR PROSPERITY ZONES**

40 **SECTION 3.1.** Intent to create Collaboration for Prosperity Zones. – It is the intent
 41 of the General Assembly to establish geographically uniform zones in this State to facilitate
 42 collaborative and coordinated planning and use of resources, to improve cooperation with other
 43 governmental and nonprofit entities at the local and regional level, to facilitate administrative
 44 efficiencies within State government, to receive advice on economic development issues by
 45 local boards established by a North Carolina nonprofit corporation with which the Department
 46 of Commerce contracts, and, to the extent feasible, to establish one-stop sources in each region
 47 for citizens and businesses seeking State services at a regional level.

48 **SECTION 3.2.** Article 1 of Chapter 143B of the General Statutes is amended by
 49 adding a new section to read:

50 "**§ 143B-28.1. Create Collaboration for Prosperity Zones.**

1 For purposes of enhanced collaboration and cooperation between governmental agencies,
2 planning, use of resources, and improved efficiency at a regional level, the State is hereby
3 divided into eight zones as follows:

- 4 (1) Western Region, consisting of Buncombe, Cherokee, Clay, Graham,
5 Haywood, Henderson, Jackson, Macon, Madison, Polk, Rutherford, Swain,
6 and Transylvania Counties.
- 7 (2) Northwest Region, consisting of Alleghany, Ashe, Alexander, Avery, Burke,
8 Caldwell, Catawba, McDowell, Mitchell, Watauga, Wilkes, and Yancey
9 Counties.
- 10 (3) Southwest Region, consisting of Anson, Cabarrus, Cleveland, Gaston,
11 Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union Counties.
- 12 (4) Piedmont-Triad (Central) Region, consisting of Alamance, Caswell,
13 Davidson, Davie, Forsyth, Guilford, Randolph, Rockingham, Stokes, Surry,
14 and Yadkin Counties.
- 15 (5) North Central Region, consisting of Chatham, Durham, Edgecombe,
16 Franklin, Granville, Harnett, Johnston, Lee, Nash, Orange, Person, Vance,
17 Wake, Warren, and Wilson Counties.
- 18 (6) Sandhills (South Central) Region, consisting of Bladen, Columbus,
19 Cumberland, Hoke, Montgomery, Moore, Richmond, Robeson, Sampson,
20 and Scotland Counties.
- 21 (7) Northeast Region, consisting of Beaufort, Bertie, Camden, Chowan,
22 Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton,
23 Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties.
- 24 (8) Southeast Region, consisting of Brunswick, Carteret, Craven, Duplin,
25 Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, and Wayne
26 Counties."

27 **SECTION 3.3.** Agencies shall, by January 1, 2014, report to the Joint Legislative
28 Commission on Governmental Operations and the Study Commission on Collaboration for
29 Prosperity on how they plan to abolish regions and transform them into Collaboration for
30 Prosperity Zones as defined by this act.

31 **SECTION 3.4.** This Part becomes effective July 1, 2013.

32 33 **PART IV. REQUIRE AT LEAST ONE LIAISON IN EACH COLLABORATION FOR** 34 **PROSPERITY ZONE**

35 **SECTION 4.1.** No later than January 1, 2014, the Departments of Commerce,
36 Environment and Natural Resources, and Transportation shall have at least one employee
37 physically located in the same office in each of the Collaboration for Prosperity Zones set out
38 in G.S. 143B-28.1 to serve as that department's liaison with the other departments and with
39 local governments, schools and colleges, planning and development bodies, and businesses in
40 that zone. The departments shall jointly select the office. For purposes of this Part, the
41 Department of Commerce may contract with a North Carolina nonprofit corporation pursuant
42 to G.S. 143B-431A, as enacted by this act, to fulfill the departmental liaison requirements for
43 each office in each of the Collaboration for Prosperity Zones.

44 No later than January 1, 2014, the Community Colleges System Office shall
45 designate at least one representative from a community college or from the Community
46 Colleges System Office to serve as a liaison in each Collaboration for Prosperity Zone for the
47 community college system, the community colleges in the zone, and other educational agencies
48 and schools within the zone. A liaison may be from a business center located in a community
49 college. These liaisons are not required to be collocated with the liaisons from the Departments
50 of Commerce, Environment and Natural Resources, and Transportation.

1 **SECTION 4.2.** In addition to other related tasks assigned by their respective
2 agencies, liaisons in each Collaboration for Prosperity Zone shall work to enhance
3 collaboration and cooperation between their departments and other State agencies, local
4 governmental agencies, and other regional public and nonprofit entities. The liaisons from the
5 Departments of Environment and Natural Resources and Transportation shall work to
6 consolidate and simplify the process for citizens and businesses seeking permits from their
7 respective agencies. The liaisons from the Department of Commerce shall be used to support
8 local economic development efforts, to coordinate such efforts, and to coordinate the
9 Department of Commerce's activities within each Collaboration for Prosperity Zone. The
10 liaisons from the community college system shall work closely with the Department of
11 Commerce and other State and local governmental agencies and local businesses in the zone to
12 promote job development through career technical education.

13 **SECTION 4.3.(a)** The Departments of Transportation and Environment and
14 Natural Resources shall jointly report to the Office of State Budget and Management, the Joint
15 Legislative Commission on Governmental Operations, the Joint Legislative Transportation
16 Oversight Committee, the Environmental Review Commission, and the Study Commission on
17 Interagency Collaboration for Prosperity, as follows:

- 18 (1) No later than January 1, 2014, on the establishment of collocated liaisons
19 within each Collaboration for Prosperity Zone and a description of the
20 activities the liaisons have been assigned to perform.
- 21 (2) No later than April 1, 2014, on the activities of the liaisons, specifically any
22 activities undertaken that resulted in enhanced collaboration and
23 coordination with the other Department and with other governmental
24 agencies, improved administrative efficiencies, and any steps taken to make
25 services to citizens and businesses within each zone more efficient,
26 economical, and user-friendly.

27 **SECTION 4.3.(b)** The Community Colleges System Office shall report to the
28 Office of State Budget and Management, the Joint Legislative Commission on Governmental
29 Operations, the Joint Legislative Education Oversight Committee, and the Study Commission
30 on Interagency Collaboration for Prosperity, as follows:

- 31 (1) No later than January 1, 2014, on the establishment of liaisons within each
32 Collaboration for Prosperity Zone and a description of the activities the
33 liaisons have been assigned to perform.
- 34 (2) No later than April 1, 2014, on the activities of the liaisons, specifically any
35 activities undertaken that resulted in enhanced collaboration and
36 coordination with other governmental agencies, improved planning on use of
37 educational resources, and improved administrative efficiencies.

38 **SECTION 4.3.(c)** The Department of Commerce shall include in its first report
39 under G.S. 143B-431(c1), as enacted by this act, a report on the establishment and activities of
40 its liaisons in each Collaboration for Prosperity Zone. The Department of Commerce shall send
41 a copy of this report to the Office of State Budget and Management and to the Study
42 Commission on Interagency Collaboration for Prosperity.

43 **SECTION 4.4.** The Departments of Commerce, Environment and Natural
44 Resources, and Transportation and the Community Colleges System Office shall use funds
45 available to carry out the requirements of this section.

46 **SECTION 4.5.** Except as otherwise provided, this Part becomes effective July 1,
47 2013, and expires July 1, 2017.

48
49 **PART V. STUDY COMMISSION ON INTERAGENCY COLLABORATION FOR**
50 **PROSPERITY**

1 **SECTION 5.1.(a)** Creation of Commission. – The Study Commission on
2 Interagency Collaboration for Prosperity is established in the General Assembly.

3 **SECTION 5.1.(b)** Membership. – The Study Commission on Interagency
4 Collaboration for Prosperity shall consist of eight members, four members of the Senate
5 appointed by the President Pro Tempore of the Senate and four members of the House of
6 Representatives appointed by the Speaker of the House of Representatives.

7 **SECTION 5.1.(c)** Cochairs; Vacancies; Quorum. – The Study Commission on
8 Interagency Collaboration for Prosperity shall have two cochairs, one designated by the
9 President Pro Tempore of the Senate and one designated by the Speaker of the House of
10 Representatives from among their respective appointees. The Commission shall meet upon the
11 call of the cochairs. Any vacancy on the Commission shall be filled by the original appointing
12 authority. A majority of the members of the Commission constitutes a quorum.

13 **SECTION 5.1.(d)** Compensation; Administration. – Members of the Study
14 Commission on Interagency Collaboration for Prosperity shall receive per diem, subsistence,
15 and travel allowances in accordance with G.S. 120-3.1. The Commission, while in the
16 discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and
17 G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the Legislative Building or
18 the Legislative Office Building.

19 With approval of the Legislative Services Commission, the Legislative Services
20 Officer shall assign professional staff to assist the Study Commission on Interagency
21 Collaboration for Prosperity in its work. The House of Representatives' and the Senate's
22 Directors of Legislative Assistants shall assign clerical staff to the Study Commission on
23 Interagency Collaboration for Prosperity, and the expenses relating to the clerical employees
24 shall be borne by the Commission. The Study Commission on Interagency Collaboration for
25 Prosperity may contract for professional, clerical, or consultant services, as provided by
26 G.S. 120-32.02.

27 **SECTION 5.2.(a)** Duties. – The Study Commission on Interagency Collaboration
28 for Prosperity shall review the reports submitted by the Departments of Commerce,
29 Environment and Natural Resources, and Transportation and the Community Colleges System
30 Office pursuant to Part IV of this act and any other information the Commission deems
31 relevant. The Commission may also study and recommend to the 2014 Regular Session of the
32 2013 General Assembly legislation on the following topics:

- 33 (1) Enhancing collaboration and cooperation between State and other
34 governmental agencies in order to streamline and improve services to
35 citizens and businesses, to make such services more user-friendly, and to
36 implement collaborative and cooperative interagency measures to enhance
37 access to services.
- 38 (2) Reducing barriers faced by citizens and businesses in accessing services that
39 are unnecessarily caused by agency specialization (which may produce a
40 "silo mentality").
- 41 (3) Additional recommendations regarding liaison personnel, including
42 expanding the requirement to other State departments.
- 43 (4) Ways to integrate collaboration between educational institutions in each
44 Collaboration for Prosperity Zone on the one hand and other governmental
45 agencies and local businesses on the other.
- 46 (5) Requiring the establishment of interagency one-stop shops in each
47 Collaboration for Prosperity Zone.
- 48 (6) Consolidation of programs or services.
- 49 (7) Cross-training of employees.

1 (8) Identification of offices, equipment, and support services that may be
2 efficiently and economically shared between agencies in each Collaboration
3 for Prosperity Zone.

4 (9) The grouping of counties within each Collaboration for Prosperity Zone to
5 determine whether there is a better configuration while keeping the same
6 overall number of zones.

7 The report containing the recommendations shall identify any savings or costs identified by the
8 Commission as likely to result from its recommendations.

9 **SECTION 5.2.(b)** Report. – The Study Commission on Interagency Collaboration
10 for Prosperity shall report its recommendations under this section to the 2014 Regular Session
11 of the 2013 General Assembly.

12 **SECTION 5.2.(c)** Agency Cooperation. – All State departments and agencies and
13 local governments and their subdivisions shall furnish the Study Commission on Interagency
14 Collaboration for Prosperity with any information in their possession or available to them.

15 **SECTION 5.2.(d)** Commission Termination. – The Study Commission on
16 Interagency Collaboration for Prosperity shall terminate on the filing of its report or on July 1,
17 2014, whichever is later.

18 19 **PART VI. MODIFY REPEAL OF REGIONAL ECONOMIC DEVELOPMENT** 20 **COMMISSIONS**

21 **SECTION 6.1.** If Senate Bill 402, 2013 Regular Session of the General Assembly,
22 becomes law and appropriates money to the Department of Commerce for allocation to the
23 regional economic development commissions, then the Department shall retain disbursements
24 to the commissions occurring on or after January 1, 2014, and those funds shall be available to
25 the Department to use or allocate to a North Carolina nonprofit corporation for costs incurred
26 on or after that date associated with State marketing and rebranding functions.

27 **SECTION 6.2.** If Senate Bill 402, 2013 Regular Session of the General Assembly,
28 becomes law, then the title of Section 15.28 of that act reads as rewritten:

29 **"REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STATUTES**
30 **CREATING COMMISSIONS REPEALED EFFECTIVE JUNE 30, 2014"**

31 **SECTION 6.3.** If Senate Bill 402, 2013 Regular Session of the General Assembly,
32 becomes law, Section 15.28(g) of that act reads as rewritten:

33 **"SECTION 15.28.(g)** This section becomes effective ~~June 30, 2014~~ December 31, 2013."

34 **SECTION 6.4.** This Part is effective when it becomes law.

35 36 **PART VII. PERMIT ISSUANCE FOR HORIZONTAL DRILLING AND HYDRAULIC** 37 **FRACTURING**

38 **SECTION 7.1.** All rules required to be adopted by the Mining and Energy
39 Commission, the Environmental Management Commission, and the Commission for Public
40 Health to create a modern regulatory program for the management of oil and gas exploration
41 and development activities in the State, including the use of horizontal drilling and hydraulic
42 fracturing for that purpose, shall be adopted no later than October 1, 2014, as provided in
43 Section 2(m) of S.L. 2012-143. Effective July 1, 2015, the Department of Environment and
44 Natural Resources and the Mining and Energy Commission are authorized to issue permits for
45 oil and gas exploration and development activities using horizontal drilling and hydraulic
46 fracturing treatments in the State pursuant to G.S. 113-395; however, the Department of
47 Environment and Natural Resources and the Mining and Energy Commission shall not issue
48 such permits until all rules required to be adopted pursuant to Section 2(m) of S.L. 2012-143
49 have become effective.

50 **SECTION 7.2.** Section 3(d) of S.L. 2012-143 is repealed.

1 **SECTION 7.3.** If Senate Bill 76, 2013 Regular Session, becomes law, then Section
2 1(c) of that act is repealed.

3 **SECTION 7.4.** This Part is effective when it becomes law.

4
5 **PART VIII. SEVERANCE TAX**

6 **SECTION 8.1.** Chapter 105 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 5I.

9 "Severance Tax.

10 **"§ 105-187.71. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Casinghead gas. – Gas or vapor indigenous to an oil stratum and produced
13 from the stratum with oil.
- 14 (2) Commission. – The Mining and Energy Commission.
- 15 (3) Condensate. – Liquid hydrocarbon that is or can be recovered from gas by a
16 separator or other means.
- 17 (4) Energy mineral. – All forms of natural gas, oil, and related condensates.
- 18 (5) First purchaser. – A person who purchases an energy mineral from a
19 producer.
- 20 (6) Gas. – All natural gas, including casinghead gas, and all other hydrocarbons
21 not defined as condensates.
- 22 (7) High-cost gas well. – Any gas well that is completed as a well capable of
23 producing high-cost gas.
- 24 (8) High-cost gas. – Natural gas that is (i) produced from any gas well
25 completed within a shale formation, including, but not limited to, the Deep
26 River Basin, the Dan River Basin, or their stratigraphic equivalents, as
27 described in published stratigraphic nomenclature recognized by the North
28 Carolina Geological Survey; (ii) produced from any gas well in which the
29 production is from a completion that is located at a depth of more than
30 12,500 feet below the surface of the earth, where the term "depth" means the
31 length of the maximum continuous drilling string of drill pipe used between
32 the drill bit face and the drilling rig's kelly bushing; (iii) produced from a
33 tight gas formation; (iv) produced from geopressured brine; or (v) occluded
34 natural gas produced from coal seams.
- 35 (9) Marginal conventional well gas. – All natural gas produced from a
36 conventional gas well beginning on the date the conventional gas well is
37 incapable of producing more than 250 MCF per day, as determined by the
38 Commission using the current wellhead deliverability rate methodology
39 utilized by the Commission, during the calendar month for which the
40 severance tax report is filed.
- 41 (10) Marginal gas. – Conventional or high-cost well gas produced from a
42 marginal gas well, as those terms are defined by this section, and includes
43 gas produced from all zones and multilateral branches at a single well
44 without regard to whether the production is separately metered. The term
45 "marginal gas" shall not include gas produced from (i) a high-cost gas well
46 during the first 48 months of production from such well or (ii) a new
47 discovery gas well during the first 24 months of production from such well.
- 48 (11) Marginal gas well. – Any gas well that produces or is capable of producing
49 marginal gas, as determined by the Commission using the current wellhead
50 deliverability rate methodology utilized by the Commission.

- 1 (12) Marginal high-cost well gas. – All natural gas produced from a high-cost gas
2 well beginning on the date the high-cost gas well is incapable of producing
3 more than 100 MCF per day, as determined by the Commission using the
4 current wellhead deliverability rate methodology utilized by the
5 Commission, during the calendar month for which the severance tax report is
6 filed.
- 7 (13) MCF. – One thousand cubic feet of natural gas.
- 8 (14) New discovery gas. – Natural gas that is produced from a new discovery gas
9 well.
- 10 (15) New discovery gas well. – Any conventional gas well that is completed as a
11 well capable of producing gas.
- 12 (16) Oil. – Crude petroleum oil, and other hydrocarbons, regardless of gravity,
13 which are produced at the well in liquid form by ordinary production
14 methods and which are not the result of condensation of gas after it leaves
15 the reservoir.
- 16 (17) Owner. – An owner of a landowner's royalty interest, of an overriding
17 royalty, of profits and working interests, or any combination thereof in
18 energy minerals. The term does not include an owner of federal, State, or
19 local governmental royalty interest.
- 20 (18) Payout. – The date the cumulative working interest revenues from a
21 high-cost gas well equal the sum of (i) all reasonable and necessary drilling
22 and completion costs incurred in connection with a high-cost gas well and
23 (ii) all reasonable and necessary operating costs incurred or accrued in
24 connection with the operation of a high-cost gas well during the period of
25 cost recovery. In calculating "payout," drilling, completion, and operating
26 costs shall not include lease acquisition costs, tank batteries, meters,
27 pipelines, or any other surface equipment except the wellhead equipment
28 and separator. For purposes of this subdivision (i) "drilling and completion
29 costs" means all reasonable and necessary drilling and completion costs
30 incurred and paid by the cumulative working interests in connection with the
31 high-cost gas well and (ii) "operating costs" means all reasonable and
32 necessary operating costs incurred or accrued by the cumulative working
33 interests during the period of cost recovery.
- 34 (19) Person. – Defined in G.S. 105-228.90.
- 35 (20) Producer. – A person who takes an energy mineral from the soil or water in
36 this State.
- 37 (21) Return. – Any report or statement required to be filed under this Article to
38 determine the tax due.
- 39 (22) Royalty interest. – An interest in mineral rights in a producing leasehold in
40 the State. A royalty interest does not include the interest of a person having
41 only the management and operation of a well.
- 42 (23) Secretary. – The Secretary of Revenue.
- 43 (24) Severance. – The extraction or other removal of an energy mineral from the
44 soil or water of this State.
- 45 (25) Severed. – The point at which the energy mineral has been separated from
46 the soil or water of this State.
- 47 (26) Standard barrel of oil. – A barrel of oil containing 42 gallons.
- 48 (27) Taxpayer. – Any person required to pay the severance tax levied by this
49 Article.
- 50 (28) Tight gas formation. – A natural gas bearing formation that has any one or
51 more of the following properties:

- 1 a. Is a shale formation within the Deep River Basin.
- 2 b. Is a shale formation within the Dan River Basin.
- 3 c. Is a shale formation within the Cumberland-Marlboro Basin.
- 4 d. Is a sedimentary formation anywhere within the State with an
5 average in situ permeability of one-tenth milliDarcy (0.1mD) or less.

6 **"§ 105-187.72. Tax on severance of energy minerals.**

7 (a) Purpose. – An excise tax, to be termed a "severance tax," is levied on the privilege
8 of engaging in the severance of energy minerals from the soil or water of this State. The
9 purpose of the tax is to provide revenue to administer and enforce the provisions of this Article,
10 to administer the State's natural gas and oil reclamation regulatory program, to meet the
11 environmental and resource management needs of this State, and to reclaim land affected by
12 exploration for, drilling for, and production of natural gas and oil. The severance tax is imposed
13 upon all energy minerals severed when sold or consumed, whichever occurs first.

14 (b) Calculation of Tax. – The amount of the severance tax shall be determined as
15 follows:

- 16 (1) Condensates. – The applicable market percentage rate multiplied by the
17 market value per each barrel of oil equivalents (BOE) of the condensates
18 sold.
- 19 (2) Gas. – The applicable market percentage rate multiplied by the market value
20 per each MCF of the gas sold.
- 21 (3) Oil. – The applicable market percentage rate multiplied by the market value
22 per each standard barrel of the oil sold.

23 (c) Applicable Market Percentage Rate. – The applicable market percentage rate is the
24 lowest of the following rates for which the energy mineral is eligible:

- 25 (1) The market percentage rate in G.S. 105-187.73.
- 26 (2) The market percentage rate applicable to the severance of high-cost gas in
27 G.S. 105-187.74.
- 28 (3) The market percentage rate applicable to the severance of marginal gas and
29 new discovery gas in G.S. 105-187.75.

30 **"§ 105-187.73. Market percentage rate.**

31 (a) Market Percentage Rate of Condensates. – The market percentage rate of
32 condensates is a fraction, the numerator of which is the market value of the condensate which is
33 determined as provided in G.S. 105-187.76, per each barrel of oil equivalents sold, plus one,
34 and the denominator of which is 100.

35 (b) Market Percentage Rate of Gas. – The market percentage rate of gas is a fraction,
36 the numerator of which is the market value of the natural gas which is determined as provided
37 in G.S. 105-187.76, per each million British Thermal Units of natural gas sold, plus one, and
38 the denominator of which is 100.

39 (c) Market Percentage Rate of Oil. – The market percentage rate of oil is a fraction, the
40 numerator of which is the market value of the oil which is determined as provided in
41 G.S. 105-187.76, per each standard barrel of oil sold, plus one, and the denominator of which is
42 100.

43 (d) The applicable market percentage rate of oil, gas, and condensates shall be no less
44 than nine-tenths percent (0.9%) and shall not exceed the following:

- 45 (1) For energy minerals severed prior to January 1, 2019, the market percentage
46 rate shall be one and nine-tenths percent (1.9%).
- 47 (2) For energy minerals severed on or after January 1, 2019, through December
48 31, 2021, the market percentage rate shall be two and nine-tenths percent
49 (2.9%).
- 50 (3) For energy minerals severed after on or after January 1, 2022, the market
51 percentage rate shall be five and nine-tenths percent (5.9%).

"§ 105-187.74. Market percentage rate applicable to severance of high-cost gas.

(a) For high-cost gas severed on or after June 1, 2015, the applicable market percentage rate shall be one and nine-tenths percent (1.9%) for the first 48 consecutive calendar months beginning on the date of first production from the high-cost gas well. If the high-cost gas well does not achieve payout by the end of the 48-month period, the one and one-half percent (1.5%) market percentage rate may be extended up to the earlier of 12 months or the payout of the high-cost gas well.

(b) In order to request an extension of the 48-month period described in subsection (a) of this section, a producer of high-cost gas shall furnish the Secretary an initial payout statement, in a form to be prescribed by the Secretary, setting forth the following:

- (1) The producer's cumulative costs of drilling and completing the high-cost gas well.
- (2) The producer's cumulative costs of operating the high-cost gas well through the end of the last month of the payout period reflected on the initial payout statement.
- (3) The total volume of gas production from the high-cost gas well through the end of the last month of the payout period reflected on the initial payout statement.
- (4) The total actual cash receipts received from the production of natural gas from the high-cost gas well through the end of the last month of the payout period reflected on the initial payout statement.

(c) The Secretary shall grant or deny the extension requested within 10 business days of receipt of the extension request and initial payout statement from the producer.

(d) For each high-cost gas well for which a producer has requested an extension of the 48-month high-cost gas recovery period, the producer shall furnish a verified final payout statement to the Secretary within 25 days after the end of the month in which the earlier of the following occurs:

- (1) Payout of the high-cost gas well; or
- (2) Twelve months following the expiration of the original 48-month period.

(e) The producer's final payout statement shall be in a form to be prescribed by the Commission and set forth the following:

- (1) The producer's cumulative cost of operating the high-cost gas well through the end of the last month reflected on the final payout statement.
- (2) The volume of gas production from the high-cost gas well through the end of the last month reflected on the final payout statement.
- (3) The actual cash receipts received from production from the high-cost gas well through the end of the last month reflected on the final payout statement.
- (4) The remaining dollar amount needed to achieve payout for the high-cost gas well, if applicable.

(f) At the later of the expiration of the original 48-month period or any allowed extension, the market percentage rate applicable to high-cost gas shall be the rate otherwise applicable to severance of natural gas or as otherwise determined by provisions of this Article.

"§ 105-187.75. Market percentage rate applicable to severance of marginal gas and new discovery gas.

(a) For severance of marginal gas the market percentage rate is:

- (1) For gas severed prior to January 1, 2019, the rate is nine-tenths percent (0.9%).
- (2) For gas severed on or after January 1, 2019, the applicable market percentage rate is one and one-half percent (1.5%) for the first 24 consecutive calendar months beginning on the date of first production of the

1 marginal gas. Following this 24-month period, the market percentage rate is
2 the rate otherwise applicable to severance of natural gas or as otherwise
3 determined by provisions of this Article.

4 (b) For severance of new discovery gas the market rate is:

5 (1) For gas severed prior to January 1, 2019, the rate is one and one-quarter
6 percent (1.25%).

7 (2) For gas severed on or after January 1, 2019, the applicable market
8 percentage rate shall be one and three-quarter percent (1.75%) for the first
9 24 consecutive calendar months beginning on the date of first production
10 from the new discovery gas well. Following this 24-month period, the
11 market percentage rate applicable to new discovery gas shall be the rate
12 otherwise applicable to severance of natural gas or as otherwise determined
13 by provisions of this Article.

14 **"§ 105-187.76. Market value.**

15 (a) Market Value of Oil. – The market value of oil is the total actual gross price in U.S.
16 dollars paid by the first purchaser at the mouth of the well from which the oil was produced.

17 (b) Market Value of Natural Gas. – The market value of natural gas is the total actual
18 gross price in U.S. dollars paid to the producer by the first purchaser at the mouth of the well
19 from which the natural gas is produced, as adjusted in this section. The market value of gas at
20 the mouth of the well shall be determined by subtracting the producer's actual marketing costs
21 from the producer's total gross cash receipts from the sale of the natural gas. A producer
22 receiving a cost reimbursement from the gas purchaser shall include the reimbursement in the
23 gross cash receipts and is entitled to deduct the actual marketing costs of the gas incurred.

24 (c) Market Value of Condensates. – The market value of condensates is the total actual
25 gross price paid in U.S. dollars by the first purchaser of condensates at the mouth of the well
26 from which it was produced.

27 (d) Subtraction of Marketing Costs. – In order to be eligible to subtract the actual
28 marketing costs from the producer's gross receipts for purposes of calculating the market value
29 of natural gas, the producer shall provide any information required by the Secretary. Every
30 producer subtracting the marketing costs as permitted under this subsection shall maintain and
31 make available for inspection by the Secretary any records the Secretary considers necessary to
32 determine and verify the amount of the marketing costs the producer is eligible to subtract. The
33 burden of proving eligibility for subtracting the marketing costs and the amount of the
34 marketing costs to be subtracted shall rest upon the producer, and no subtraction of marketing
35 costs shall be allowed to a producer that fails to maintain adequate records or to make them
36 available for inspection.

37 (e) Marketing Costs and Marketing Facilities Defined. –

38 (1) "Marketing costs" are the actual and reasonable costs incurred by the
39 producer to get the gas from the mouth of the well to the first purchaser,
40 except costs incurred in normal lease separation of the oil or condensate
41 from the gas and costs associated with insurance premiums on a marketing
42 facility. Marketing costs include only the following:

43 a. Costs for compressing the gas sold.

44 b. Costs for dehydrating the gas sold.

45 c. Costs for sweetening and treating the gas sold.

46 d. Costs for delivering the gas to the purchaser.

47 e. Reasonable charges for depreciation of the marketing facility being
48 used, provided that, if the facility is rented, the actual rental fee is
49 added.

50 f. Costs of direct or allocated labor associated with the marketing
51 facility.

- 1 g. Costs of materials, supplies, maintenance, repairs, and fuel associated
2 with the marketing facility.
3 h. Ad valorem taxes paid on the marketing facility.
4 i. Charges for fees paid by the producer to any provider of dehydration,
5 treating, compression, and delivery services.

6 (2) A "marketing facility" includes flow lines or gathering systems from the
7 separator to the purchaser's transmission line, compressor stations,
8 dehydration units, line heaters (after the separator), and treating facilities.

9 (f) Limitation. – The marketing costs subtracted in determining the market value of
10 natural gas in this section shall not exceed eighty percent (80%) of the total actual gross price
11 in U.S. dollars paid to the producer by the first purchaser at the mouth of the well from which
12 the natural gas is produced as, adjusted in this section.

13 **"§ 105-187.77. On-site use exemption from the tax.**

14 On-site use is exempt from the tax imposed under this Article. On-site use is the severance
15 of energy minerals from land or water in this State owned legally or beneficially by the
16 producer, which energy minerals are used on the land from which they are taken by the
17 producer as part of the improvement of or use in the producer's homestead and which have a
18 yearly cumulative market value of not greater than one thousand two hundred dollars (\$1,200).
19 When severed energy minerals so used exceed a cumulative market value of one thousand two
20 hundred dollars (\$1,200) during any year, the further severance of energy minerals shall be
21 subject to the tax imposed by this Article.

22 **"§ 105-187.78. Returns and payment of tax.**

23 (a) General. – Severance taxes are payable when a return is due. A return is due
24 quarterly or monthly as specified in this section. A return must be filed by the producer of the
25 energy mineral with the Secretary on a form prescribed by the Secretary and in the manner
26 required by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent.

27 (b) Payment. – A producer of energy minerals shall pay the tax for all owners of the
28 energy minerals. The producer shall withhold from any payment due owners the proportionate
29 tax due for remittance to the Secretary.

30 (c) Quarterly. – A taxpayer who is consistently liable for less than one thousand dollars
31 (\$1,000) a month in severance taxes must file a return and pay the taxes due on a quarterly
32 basis. A quarterly return covers a calendar quarter and is due by the 25th day of the second
33 month following the end of the quarter.

34 (d) Monthly. – A taxpayer who is consistently liable for at least one thousand dollars
35 (\$1,000) a month in severance taxes must file a return and pay the taxes due on a monthly
36 basis. A monthly return is due by the 25th day of the second month following the calendar
37 month covered by the return.

38 (e) Category. – The Secretary must monitor the amount of severance taxes paid by a
39 taxpayer or estimate the amount of taxes to be paid by a new taxpayer and must direct each
40 taxpayer to pay tax and file returns as required by this section. In determining the amount of
41 taxes due from a taxpayer, the Secretary must consider the total amount due from all places of
42 business owned or operated by the same person as the amount due from that person. A taxpayer
43 must file a return and pay tax in accordance with the Secretary's direction.

44 (f) Information on Return. – The amount of tax due and any other information required
45 by the Secretary must be included on the return. Returns that do not contain the required
46 information will not be accepted. When an unacceptable return is submitted, the Secretary will
47 require a corrected return to be filed. The return must contain the following information
48 concerning energy minerals produced during the month being reported:

- 49 (1) The gross amount of energy minerals produced that are subject to the tax
50 imposed by this Article.
51 (2) The leases from which the energy minerals were produced.

1 (3) The names and addresses of the first purchasers of the energy minerals.

2 (g) Additional Information. – To claim an exemption for on-site use, or to be eligible
3 for the alternative market percentage rates for high-cost gas, marginal gas, and new discovery
4 gas, the producer or taxpayer of a proposed or existing gas well shall apply, at any time, to the
5 Secretary for determination of eligibility. The Secretary may require an applicant to provide
6 any information required to administer this provision. The Secretary shall make the
7 determination within 15 calendar days of the receipt of all information required by the
8 Secretary from the producer or taxpayer, and the producer or taxpayer shall attach the
9 determination of eligibility to its severance tax form next due, as applicable. The taxpayer shall
10 provide any information required by the Secretary. Every taxpayer claiming the exemption or
11 alternative market percentage rate shall maintain and make available for inspection by the
12 Secretary of Revenue any records the Secretary considers necessary to determine and verify the
13 claim to which the taxpayer is entitled. The burden of proving eligibility shall rest upon the
14 taxpayer, and no exemption shall be allowed to a taxpayer that fails to maintain adequate
15 records or to make them available for inspection. The portion of the severance tax that is
16 required to be deducted from the royalty owner or other interest shall be calculated in the same
17 manner as the portion of the severance tax borne by the producer.

18 **"§ 105-187.79. Bond or letter of credit required.**

19 A producer must file with the Secretary a bond or an irrevocable letter of credit if the
20 producer fails to file a return required under this Article. A bond or an irrevocable letter of
21 credit must be conditioned upon compliance with the requirements of this Article, be payable to
22 the State, and be in the form required by the Secretary. The amount of the bond or irrevocable
23 letter of credit is two times the applicant's average expected monthly tax liability under this
24 Article, as determined by the Secretary. When notified to do so by the Secretary, a person that
25 is required to file a bond or an irrevocable letter of credit must file the bond or irrevocable letter
26 of credit in the amount required by the Secretary within 30 days after receiving the notice from
27 the Secretary.

28 **"§ 105-187.80. Allocation of revenue.**

29 The Secretary shall allocate the tax levied in this Article as provided in this section. The
30 funds allocated shall not be expended until appropriated by the General Assembly.

31 (1) Ten percent (10%), not to exceed two million dollars (\$2,000,000) per year,
32 to the Department of Environment and Natural Resources for purposes of
33 administering its duties and responsibilities under Article 27 of Chapter 113
34 of the General Statutes.

35 (2) Ten percent (10%) to the Onshore Energy Management Fund until the Fund
36 reaches fifteen million dollars (\$15,000,000). The Onshore Energy
37 Management Fund is an interest-bearing special revenue fund to be
38 established within the State treasury. This Fund shall be used only for
39 emergency preparation, emergency response, emergency environmental
40 protection, or mitigation associated with a release of liquid hydrocarbons or
41 associated fluids directly related to onshore energy exploration,
42 development, production, or transmission. Once the fund balance reaches the
43 amount of fifteen million dollars (\$15,000,000), funds over that amount shall
44 be allocated to the remainder as provided in subdivision (3) of this section. If
45 monies are withdrawn from the Onshore Energy Emergency Fund to carry
46 out the provisions in this subdivision, ten percent (10%) of the revenues
47 generated by the tax levied in this Article shall be deposited in the Onshore
48 Energy Emergency Fund until a total of fifteen million dollars (\$15,000,000)
49 is reestablished.

1 (3) Ten percent (10%) to county governments in which severance taxes are
2 collected in proportion to the amount of severance taxes collected in each
3 county.

4 (4) The remainder after the allocations in subdivisions (1), (2), and (3) of this
5 section to Economic Development Fund established in the Department of
6 Commerce. The Economic Development Fund shall be a special revenue
7 fund. The revenue in the Economic Development Fund shall be used by the
8 Department of Commerce for the purposes of economic development.

9 **"§ 105-187.81. Liability of producer for tax.**

10 The tax imposed by this Article is the primary liability of the producer, except as provided
11 in this section. A first purchaser may not take delivery of energy minerals from a producer
12 unless the producer furnishes the purchaser with a taxpayer identification number assigned by
13 the Secretary. A first purchaser failing to secure the producer's taxpayer number, either from
14 the producer or the Secretary, will be liable for any tax, penalty, and interest due on the energy
15 minerals purchased from the producer.

16 **"§ 105-187.82. Royalty owner's records.**

17 The owner of a royalty interest shall keep and provide to the Secretary, upon request, both
18 of the following:

19 (1) A record of all money received as royalty from each producing leasehold in
20 the State.

21 (2) A copy of all settlement sheets furnished by a purchaser or operator or other
22 statement showing the amount of energy minerals for which a royalty was
23 received and the amount of severance tax deducted.

24 **"§ 105-187.83. Permits suspended for failure to report.**

25 If an entity fails to file any report or return or to pay any tax or fee required by this Article
26 for 90 days after it is due, the Secretary shall inform the Secretary of Environment and Natural
27 Resources of this failure. The Secretary of Environment and Natural Resources shall suspend
28 permits for oil and gas exploration using horizontal drilling and hydraulic fracturing under
29 G.S. 113-395 of any entity that fails to file a return under this Article. The Secretary of
30 Environment and Natural Resources shall immediately notify by mail an entity of a suspension
31 under this section.

32 **"§ 105-187.84. No local taxation.**

33 A city or county may not impose a franchise, privilege, license, income, or excise tax on the
34 severing, production, treating, processing, ownership, sale, storage, purchase, marketing, or
35 transportation on any energy minerals produced in the State, or upon the business of severing,
36 producing, treating, processing, owning, selling, buying, storing, marketing, or transporting
37 such energy minerals, or upon the ownership, operation, or maintenance of plants, facilities,
38 machinery, pipelines, and gathering lines related to the severing, production, treating,
39 processing, ownership, storage, sale, purchase, marketing, or transportation of energy minerals.
40 This section does not preclude the taxation of the property in accordance with Article 11 of this
41 Chapter."

42 **SECTION 8.2.** G.S. 105-259(b) is amended by adding a new subdivision to read:

43 **"(44)** To furnish to the Department of Environment and Natural Resources the
44 name, address, tax year end, and account and identification numbers of an
45 entity liable for severance tax to enable the Secretary of Environment and
46 Natural Resources to notify the entity that the Department of Environment
47 and Natural Resources shall suspend permits of the entity for oil and gas
48 exploration using horizontal drilling and hydraulic fracturing under
49 G.S. 113-395."

50 **SECTION 8.3.** G.S. 113-387 and G.S. 113-388 are repealed.

51 **SECTION 8.4.** G.S. 105-130.5(a)(11) is repealed.

1 **SECTION 8.5.** Section 8.4. is effective for taxable years that begin on or after July
2 1, 2015. Sections 8.1, 8.2., and 8.3. become effective July 1, 2015, and apply to energy
3 minerals severed on or after that date.
4

5 **PART IX. EFFECTIVE DATE AND CONSTRUCTION**

6 **SECTION 9.1.** Nothing in this act shall be construed to obligate the General
7 Assembly to appropriate funds to implement this act.

8 **SECTION 9.2.** Except as otherwise provided, this act is effective when it becomes
9 law.